

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Thomas Lee Pelzer,)	
)	C/A No. 5:11-0030-MBS
Plaintiff,)	
)	
vs.)	
)	OPINION AND ORDER
SCDC, Perry Correctional Institution,)	
Jon Ozmint, Mary Coleman, Robert Ward,)	
Michael McCall, D. Tatarsky, Miriam)	
Cocciolone, Florence Mauney, Captain)	
Tinch, Rhonda Abston, Lt. Harouff,)	
)	
Defendants.)	
_____)	

At the time of the underlying complaint, Plaintiff Thomas Lee Pelzer was an inmate in custody of the South Carolina Department of Corrections who was housed at the Perry Correctional Institution in Pelzer, South Carolina. Plaintiff, proceeding pro se, filed a complaint on January 5, 2011, alleging he was denied his constitutional rights under the First, Fifth, and Fourteenth Amendments. Plaintiff brings this action pursuant to 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Kaymani D. West for a Report and Recommendation.

This matter is before the court on motion for summary judgment filed by Defendants on August 8, 2011. By order filed August 9, 2011, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Plaintiff filed responses in opposition to Defendants' motion on August 25, 2011 and August 31, 2011, to which Defendants filed a reply on September 19, 2011. On February 15, 2012, the Magistrate Judge issued a Report and Recommendation in which she recommended that Defendants' motion for summary judgment be granted. Plaintiff filed no

objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. For the reasons set forth herein and in the Report and Recommendation, Defendants’ motion for summary judgment (ECF No. 41) is **granted** and the case dismissed.

IT IS SO ORDERED.

/s/ Margaret B. Seymour

Chief United States District Judge

Columbia, South Carolina

March 8, 2012

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.